

1 **LAW OFFICES OF THOMAS M. SWIHART**

2 Thomas M. Swihart, Esq. (State Bar No. 98564)
2039 Shattuck Avenue, Suite 308
3 Berkeley, CA 94704
3 Telephone: (510) 843-2750
4 Facsimile: (510) 843-2762
4 E-mail: tmsesq@aol.com

5 Attorney for Defendant

6 **REAL PROPERTY AND IMPROVEMENTS**
7 **LOCATED AT 4589 CROOKED PRAIRIE ROAD,**
7 **HUMBOLDT COUNTY, CALIFORNIA,**
8 **ASSESSOR'S PARCEL NUMBER 221-181-028**

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11 **UNITED STATES DISTRICT COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA**

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16 UNITED STATES OF AMERICA,) Case No.: 08-2696 WHA
17 Plaintiff,) **DEFENDANT'S CASE MANAGEMENT**
18 vs.) **STATEMENT**
19 REAL PROPERTY AND IMPROVEMENTS) Date: September 10, 2008
20 LOCATED AT 4589 CROOKED PRAIRIE) Time:
21 ROAD, HUMBOLDT COUNTY,) Courtroom
22 CALIFORNIA, ASSESSOR'S PARCEL) Honorable William H. Alsup
23 NUMBER 221-181-028,) Complaint Filed: May 29, 2008
24) Trial Date: None
25)
26)
27)
28)

Defendant

1. Jurisdiction and Service: The Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355, and 21 U.S.C. § 881. All parties have been served.

1 2. Facts: Plaintiff seeks forfeiture of real property based on its allegations that the
 2 said real property was used or intended for use to facilitate the commission of marijuana
 3 cultivation. Defendant denies this and asserts, *inter alia*, that any activities occurring on the said
 4 property, were subject to regulation solely by the State of California, and are thereby
 5 Constitutionally protected.

6 3. Legal Issues: Can the United States government assume jurisdiction over state
 7 controlled legislation in violation of the Tenth Amendment to the U.S. Constitution. Defendant
 8 is currently evaluating other legal issues and defenses which it may assert.

9 4. Motions: None presently anticipated.

10 5. Amendment of Pleadings: None presently anticipated.

11 6. Evidence Preservation: Not presently applicable.

12 7. Disclosures: Plaintiff and Defendant are exempt from the disclosure requirements
 13 of Fed. R. Civ. P. 26.

14 8. Discovery: Neither party has commenced discovery..

15 9. Class Action: Not applicable.

16 10. Related Cases: None.

17 11. Relief: Defendant will seek award of costs and attorney fees at the culmination of
 18 this suit.

19 12. Settlement and ADR: Defendant would consent to submission of this matter for
 20 ADR.

21 13. Consent to Magistrate Judge For All Purposes: Both Plaintiff and Defendant have
 22 declined assignment to a Magistrate Judge.

23 14. Other References: None presently contemplated.

24 15. Narrowing of Issues: None presently contemplated.

25 16. Expedited Schedule: This matter is amenable to use of expedited procedures.

26 17. Scheduling: As directed by the Court.

27 18. Trial: Defendant will request a trial by Jury. The Parties anticipate a three (3)
 28 day trial.

1 19. Disclosure of Non-party Interested Entities or Persons: On September 2, 2008,
2 Defendant served and filed their “Certification of Interested Entities of Persons.”
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7 Dated: September 2, 2008
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11 THOMAS M. SWIHART
12 Attorney for Defendant
13 REAL PROPERTY AND
14 IMPROVEMENTS LOCATED AT
15 4589 CROOKED PRAIRIE ROAD,
16 HUMBOLDT COUNTY,
17 CALIFORNIA, ASSESSOR'S
18 PARCEL NUMBER 221-181-028
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1 **PROOF OF SERVICE**
2 *United States v. 4589 Crooked Lane, etc.*
3 Case No. 08-2696 WHA

4 I, THOMAS M. SWIHART, declare:

5 I am over the age of eighteen years and not a party to the cause of action. My business address is
6 2039 Shattuck Avenue, Suite 308, Berkeley, CA 94704. On September 2, 2008, I served the
7 documents described as: **DEFENDANT'S CASE MANAGEMENT STATEMENT** on the
8 interested parties in this matter by placing a true copy thereof in a sealed envelope(s) addressed
9 as follows:

10 **David B. Countryman, AUSA**
11 **Office of the US Attorney**
12 **450 Golden Gate Avenue, 9th Floor**
13 **San Francisco, CA 94102**

14 Service of the above document(s) was effectuated by the following means of service:

15 [x] **By First Class Mail** -- I am readily familiar with this office's practice
16 for collection and processing of correspondence for mailing with the
17 United States Postal Service. It is deposited with the United States
18 Postal Service in the ordinary course of business on the same day it is
19 processed for mailing. I caused such envelope(s) to be deposited in
20 the mail at Berkeley, California. The envelope was mailed with
21 postage thereon fully prepaid.

22 [] **By Personal Service** -- By causing to personally deliver a true copy
23 thereof in a sealed envelope.

24 [] **By Overnight Delivery Service** -- I caused such envelope(s) to be
25 deposited in a box or other facility regularly maintained by the
26 express service carrier or delivered to an authorized courier or driver
27 authorized by the express service carrier to receive documents. The
28 envelope was deposited with the express service carrier with delivery
fees paid or provided for.

29 [] **Facsimile Transmission** -- I served the documents in this matter via
30 facsimile transmission to: **(415) 436-6748**

31 I declare under penalty of perjury under the laws of the State of California that the
32 foregoing is true and correct, and executed this 2nd day of September, 2008, at Berkeley,
33 California.

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37 THOMAS M. SWIHART
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